

## **EXHIBIT 2**

Trial transcript

265P09

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1 STATE OF NORTH CAROLINA  
2 COUNTY OF CABARRUS

IN THE GENERAL COURT OF JUSTICE

SUPERIOR COURT DIVISION

3  
4  
5 STATE OF NORTH CAROLINA  
6 VS.  
7 RONNIE WALLACE LONG,  
8 DEFENDANT

DOCKET NUMBERS 76CR5708,  
AND 76CR5709 CONSOLIDATED.

9  
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11  
12  
13  
14 VOLUME I

15  
16  
17 SELECTION OF THE JURY  
18  
19  
20  
21  
22  
23  
24  
25

Ex. 10 # 23

1 MR. FULLER: Please the Court, from a visual inspection  
2 of the jury and based upon the representation, there were  
3 only forty-nine people called, there were only two black  
4 people in the forty-nine. We move at this time to quash  
5 that panel. My understanding that the relative per-  
6 centage of black in the State of North Carolina in this  
7 County is in the approximate area of twenty per cent.  
8 That it is obvious that the percentage of blacks included  
9 in this panel is four per cent, and we think this---

10 COURT: Do you want to be heard? Do you want to put on  
11 evidence and be heard?  
12

13 MR. FULLER: I think, in this particular case, the dis-  
14 parity is so great the burden should be on the State to  
15 go forward. This is also especially true where special  
16 jurors are brought in, and we are frankly unaware for the  
17 prospect of those being brought in.

18 COURT: I'll let you examine the Clerk and Court Officials  
19 if you want to.  
20

21 MR. FULLER: All right, sir.

22 COURT: Who do you want to call, the Clerk of Court?  
23

24 MR. FULLER: Yes, sir.  
25

1 COURT: The Court is going to ask that the jury be taken  
2 back to the back here while we hear this matter, which  
3 ought not to be heard in their presence.

4  
5 MR. ROBERTS: The State objects to the conduction of this  
6 voir dire hearing, and takes exception thereto on the  
7 basis the Motion should have been made prior to the entry  
8 of the plea and not subsequent thereto and therefore, the  
9 State registers its objection to the hearing.

10 OVERRULED. EXCEPTION.

11  
12 MR. FULLER: Please the Court, I would like to note for the  
13 record that I approached the Court this morning, and  
14 indicated that we would be forced to raise this Motion if  
15 an inspection revealed there were not many, or any blacks  
16 in the panel, and we did not make it at that time this  
17 morning because we didn't have any idea how many people  
18 by race would be in here.

19 COURT: The jury panel did not get here until Two o'clock;  
20 and let the record also show that the Counsel for the de-  
21 fendant did talk with me about this early this morning.

22  
23 ESTUS B. WHITE, BEING FIRST DULY SWORN, TESTIFIED AS  
24 FOLLOWS:

25 DIRECT EXAMINATION BY MR. FULLER:

1 Q Would you state your name, please, sir?

2 A Estus B. White.

3 Q And your occupation?

4 A Clerk of the Superior Court, Cabarrus County.

5 Q Mr. White, did you have occasion to summon jurors for  
6 service this week?

7 A Through my office, yes.

8 Q And would you describe in your own words what process  
9 you used to bring in the jurors for this week?

10 A Process followed would be as normal for a one group---  
11 we actually made a two summons group, as I will explain  
12 that in a minute. There was a panel of jurors selected  
13 on the 4th day of August, 1976. On this list there were  
14 forty jurors summonsed for the week of court beginning  
15 today, September 27, 1976, to appear at Two o'clock this  
16 afternoon. This jury list was prepared in the same manner  
17 as all of our jury lists for Superior Court, Criminal,  
18 Superior Court, Civil, or District Court Civil, requiring  
19 a jury; and, of course, it was done in accordance with the  
20 following of the General Statutes 9-1 and 9-2, relating  
21 to the preparation of the jury list. The sources of names  
22 and, also, of course, the basis list was selected by a  
23 Jury Commission of three; one appointed by the Senior  
24 Resident Judge, Judge Thomas W. Scay; one appointed by  
25 the Board of County Commissioners of Cabarrus County; one

1 appointed by me, as a Clerk of Superior Court, through the  
2 process of a selection of a jury for any County as pre-  
3 scribed in Section 9-1, and 2, and 3, of the General  
4 Statutes. A list is prepared of approximately five to  
5 six thousand numbers. I do not know exactly the exact  
6 amount of names that comprise a jury list. This list is  
7 reviewed by the three members of the Jury Commission who  
8 serve as members as selected as I indicated. From this a  
9 number is assigned to each of the prospective jurors  
10 ranging anywhere from number one through five thousand, or  
11 six thousand depending on the number. The numbers, of  
12 course, are on a disk. There's no relation of individual's  
13 names, addresses, or any other identification that is  
14 given to the Clerk of Superior Court other than a number  
15 on a disk. I keep a disk box, I might call it, or a jury  
16 disk box, in my office. A jury is summonsed for a term  
17 of court normally at least thirty days prior to the court  
18 being in session, so that we may properly give the jurors  
19 time to prepare themselves for serving on jury service.  
20 After having reviewed, which I have reviewed the jury date  
21 of summons, when we refer to summons, actually I merely  
22 deliver a list of names to the Register of Deeds, I do not  
23 have that list with me, I can make it available. These  
24 numbers are placed on a form simply by number as one of my  
25 deputy clerks pull the numbers in preparing a jury list for

1 a particular term of court. In this particular instance,  
2 we would have been delivered this list by number only.  
3 In this particular case there were forty jurors. These  
4 numbers are then matched by the Register of Deeds to a  
5 file that he maintains under lock and key, and, of course,  
6 his maintenance of that I will let him explain. From this  
7 the Register of Deeds would match the numbers of the  
8 jurors with that of the name and address of the juror,  
9 which the matching numbers would appear. At this point  
10 a list is prepared by a Register of Deeds, and I have a  
11 copy of that particular preparation, which is addressed  
12 to the Sheriff of Cabarrus County, indicating the name of  
13 each prospective juror, the address of each prospective  
14 juror, and a card number related to the prospective juror.  
15 This list is then given to the Sheriff of Cabarrus County  
16 for his summoning the jurors to a particular session of  
17 Court. In this particular case, this was prepared on the  
18 4th day of August, 1976. The jurors were requested to  
19 appear for court at two p.m., on the 27th day of Sept-  
20 ember, 1976, early this morning; and then, of course, each  
21 juror is being summonsed during the process of selection,  
22 for after summons there is a letter or a memo sent to each  
23 prospective juror by the Sheriff's Department indicating  
24 their process for request for deferments, or requests for  
25 jury service at a particular session. The process has

1 been assigned to the Cabarrus County to one of our Dis-  
2 trict Court Judges, a resident of Cabarrus County, Randy  
3 Grant, Adam Grant, Jr., is his proper name, District  
4 Court Judge who will review properly any jury excuses and  
5 any excuses will be made by Judge Grant. Also, indicated  
6 is that a prospective juror for a deferment, or an excuse  
7 may appear before a Superior Court Judge any Monday at  
8 the beginning of Court prior to his being on the jury, or  
9 the day he is to appear for jury. So, the excuses would  
10 be rendered by either Judge Grant in the District Court  
11 prior to the day of Court, or may be done so by a Superior  
12 Court Judge holding regular session in this District. At  
13 this particular time we found that there were, when I say  
14 this particular time, in reviewing the jury list just this  
15 morning we found that five jurors had been transferred,  
16 or deferred from a previous term to this term of Court.  
17 We found that the total of all of the jurors that were  
18 either deferred or excused properly by the Judge, or  
19 Judges, that we only had a panel of approximately twenty-  
20 four I believe is the number of jurors that we had.

21  
22 COURT: This is out of the forty?

23 A This is out of the forty we had plus those deferred.

24  
25 COURT: How many of those were excused of the forty, or



1 deferred, were black?

2 A Your Honor, there is no record in my office which, of  
3 course, is only that of the disk, or to my knowledge there  
4 is no record indicated anywhere in the selection of a  
5 jury panel, or a group that would indicate anything as to  
6 race, religion, or sex, really other than a person's name,  
7 maybe Mrs. or Mr., but there is nothing denoted that I  
8 know of.  
9

10 COURT: So, you have no idea about it?

11 A I have no idea.  
12

13 COURT: Whether any of them were black or white?  
14

15 A I have no idea whether they're black, or indian, or  
16 caucasian, or white, I do not know. I have no knowledge  
17 in my opinion. The Jury Commission has no knowledge, nor  
18 does the Register of Deeds, nor the Sheriff in summons. I  
19 do not know how many members of this jury that were ex-  
20 cused were black, or white, or indian, whatsoever. I have  
21 no knowledge because there is no record maintained as to  
22 race.

23 COURT: Now this morning pursuant to my order you have had  
24 summonsed sixty and I talked with you this morning, and I  
25 believe you had talked with the attorneys of the State and

1 Defense, you indicated to the Court, well, I actually  
2 ordered the Court to summons an additional fifty jurors  
3 to appear in Court today at Two p.m., this afternoon. I  
4 also instructed you that none of these were to be excused,  
5 except those which were obviously infirm by you, and no  
6 other Judge was to have any other authority to excuse them.

7 A That is correct.

8  
9 COURT: How many did you excuse of those while we are on  
10 this subject?

11 A Your Honor, each that I have excused I have personally  
12 talked with you as Judge, and given you the circumstances  
13 of the excuse.

14  
15 COURT: I believe there were two of them. One of them was  
16 a doctor who had an operation to be performed, or---

17 A He was the anesthesiologist at the hospital.

18  
19 COURT: He was the only one at this hospital, and had two  
20 or three operations he had to be there for. The other was  
21 a lady too infirm to be brought in here, and the others I  
22 excused here in your presence. None of them that I have  
23 excused were black people.

24 A Your Honor, I might mention that, of course, this jury  
25 we knew nothing of this prospective jury list issued this  
morning until 10:15 this morning, and it was almost twenty-

1 five until eleven before we had the fifty names pulled  
2 and ready to go with the Sheriff's office. About twenty  
3 minutes it took us to get prepared and have the names  
4 pulled.

5 COURT: Were they pulled in the same manner?  
6

7 A They were pulled in the exact manner in which the  
8 other list was prepared.

9 COURT: Who drew them?  
10

11 A My deputy clerk, Jean Sherrill, drew the list from our  
12 jury box of disks, and I have the disks here also that she  
13 did pull, and this is the list and the certification as I  
14 gave it to the Register of Deeds.

15 COURT: And the disks are in here?  
16

17 A I have the disks separate. I normally do not keep the  
18 disks separate, and I must confess the reason I did this,  
19 I was not sure, it was indicated to me this morning there  
20 may be certain Motions. I did not know if we would need  
21 this jury until given the go ahead, although I indicated  
22 to you, Your Honor, I would prepare for this as early as  
23 I could do so. I do not normally maintain a separate disk  
24 for we normally put it in another pot, what we call the  
25 selected juror's disks. This is unusual that we did this.  
This was done in anticipation there may be certain Motions

1 and we would not need to notify additional jurors.

2 Q Do you know how the jury panel is selected, the total  
3 number?

4 A The jury pool is selected by the Jury Commission  
5 Members of three. The Jury Commission use a random  
6 choice selection. They do have a report in my office as  
7 to a report, and if you will get that report for me.

8 COURT: Maybe copies of that ought to be put in the record.  
9

10 MR. FULLER: Since all the jurors are out, I wonder if we  
11 might request the Court that people in the audience not  
12 express any emotion or feeling. I don't think it would be  
13 advantageous to either side. It's already happened twice.

14 COURT: As you and I have already discussed, the main thing  
15 the Court is concerned with and the main duty I have is to  
16 see that this defendant gets a fair trial. Now, if you  
17 want to help the defendant I'd suggest to you as strongly  
18 as I know how, and his lawyer is now requesting me to  
19 suggest that to you, is that you not allow your emotions  
20 to be aroused, and that you conduct yourselves in a proper  
21 manner and, of course, speaking to those who are specta-  
22 tors here in the courtroom, you are guest of the Court.  
23 You have a right to be here if you conduct yourselves  
24 properly, but you don't have much right to be here. I can  
25

1 have you removed from this Courtroom about that fast, and  
2 will do it before we'll tolerate any sort of outburst in  
3 here; and I want to have a definite understanding about  
4 that because I don't want this jury to be influenced  
5 against the defendant, and he has no control over it. If  
6 his lawyers had some control over it then he ought to be  
7 prejudiced by it, but he has no control over it, and it  
8 is my duty to see that his rights are protected, that he  
9 gets a fair an impartial trial, and I intend to do just  
10 that. Now, I don't want there to be any misunderstanding  
11 about it. Somebody told me there were some people outside  
12 marching around. I don't want no people coming in con-  
13 tact with the jury that's the reason I have instructed  
14 that all marching be done out in the front of this build-  
15 ing, so that when the jurors leave they won't come in  
16 contact with anybody that could prejudice this defendant.  
17 I'm going to do everything that I can, I assure you  
18 gentlemen of that, to see that your client gets a fair  
19 trial, as I do in every case that I try. The last thing  
20 that this Court wants is to convict an innocent man. That  
21 is my primary concern as I think it should be. The laws  
22 are designed in this State and this country solely with  
23 the ideal that it is better to turn loose ten guilty men  
24 than to convict one innocent man, and that is my theory  
25 and my feeling about it, but I say to you again, as the

1 Defendant's attorney said, your emotional outburst can do  
2 nothing but hurt this Defendant. That is my feeling about  
3 it and, of course, I'm not going to allow it in here in  
4 the courtroom; and I say to any people who have strong  
5 feelings on the other side of this thing that surely you  
6 don't want to see anything other than justice done, but  
7 any of you on either side however your feelings are, this  
8 Court is not going to tolerate any emotional outburst in  
9 this Courtroom. And I think we have a definite under-  
10 standing about that now, and we won't have any problems  
11 here and we can give this man a fair trial that he is  
12 entitled to as a citizen of this free country of ours.

13 Q Mr. White, you were talking about the method of  
14 selection of those to go into the jury pool?

15 A I have a letter addressed to Mr. James O. Bonds, which  
16 is a record of the Clerk of Superior Court's office for  
17 John R. Robinson Jr., on his letterhead, as accountant in  
18 Cabarrus County.

19 Q Mr. Robinson is Chairman of the Jury Commission?

20 A He is Chairman of the Jury Commission and the letter  
21 is signed by Edward G. Boggs, Jr., a member of the Com-  
22 mission, and Mrs. Dale Nixon, a member of the Jury Com-  
23 mission, which are the three members of the Jury Com-  
24 mission. If I may read the letter on file it tells the  
25

1 process in which it is reported as to how this jury panel,  
2 or group was selected... (READS LETTER). The date of the  
3 letter to Mr. Bonds, which is on file in the Clerk of  
4 Superior Court's office is November 7, 1975, which we are  
5 now using that prepared list.

6 COURT: Can you duplicate a copy of that? Well, let a  
7 copy of that letter be introduced into evidence as  
8 Court's Exhibit Number One.  
9

10 Q Mr. White, were you involved in the process at which  
11 time the names were purged from the original roll list?

12 A I'm going to have to think because in the past I may  
13 have been asked a question by the Jury Commission as to  
14 the manner in which to proceed. I do not recall of any  
15 incidence on this particular list that I was asked of any  
16 names, or any information. Mr. Robinson has been our  
17 Chairman since the beginning of the new jury selection  
18 system, which I believe was about in 1967, or '68. I  
19 don't recall the exact date of the new selection process.

20 Q How long have you been the clerk?

21 A Nine years. It was 1967 that this new procedure began.

22 Q Is there anything about the process that you followed  
23 this morning after instructions to obtain fifty extra  
24 jurors, that would cause you to have an opinion as to why  
25 there were only two blacks out of a panel of forty-nine

1 that appeared today?

2 A I have no opinion at all. I must admit, and I had no  
3 knowledge of who the jurors were, and naturally-- unless  
4 I happen to know a particular person, knew of his race, or  
5 color, there was nothing unusual in the preparation of  
6 this list and I would like to be able to answer that, and  
7 say that I can recall each particular jury group that we  
8 have had, but I'm honest in saying I never pay any  
9 attention to the number of women on a jury, the number of  
10 blacks, or numbers of whites, it has never conscientious-  
11 ly been a factor. In fact, I was asked this question  
12 after I had called the names of the prospective jurors,  
13 I was asked this name by certain court officials, and I  
14 honestly could not tell you if there were any, or if half  
15 of them were, and I believe you may have been in the  
16 presence, I do not recall, but anyway I could not answer  
17 the question because I did not know after having seen  
18 them, I was not conscious of the color.

19 Q Is the Chairman present?

20 A He is.

21 Q Do you have any further information based upon your  
22 personal observation and experience concerning the  
23 selection process for the jurors who are present here  
24 today?

25 A Restate it.



1 Q Did you observe anything further concerning the  
2 selection process?

3 A The selection process for the additional fifty that  
4 were called today? The procedures were handled as normal,  
5 other than the fact that we were, of course, in a greater  
6 hurry, which is not a good word but we had to have them  
7 here by two o'clock, and we didn't start on it until  
8 fifteen minutes after ten, so I would say the process was  
9 speeded rather rapidly and we were proud in our office  
10 that we were able to have a number of these jurors here  
11 today. Approximately twenty-five of the fifty, I believe,  
12 did appear, or twenty-six of the fifty, so we were able  
13 to get about half of this group.

14 COURT: Now, the others haven't been contacted by you?  
15

16 A There are some who have not been contacted due to the  
17 fact that the Sheriff's Department was not able to contact  
18 them by phone, or find out where they live. The only  
19 thing we have on the card is their mailing address, or  
20 address that we would have as obtained from the process in  
21 selecting them.

22 COURT: They're still stying to contact them, I guess?  
23

24 A The Sheriff's Department would be, in my opinion, still  
25 trying to contact them. There will still be some coming  
in, in my opinion, of this particular group. Each that

1 has been excused has been excused personally by me with  
2 a doctor's excuse, or by Your Honor. The ones that are  
3 excused I did have two doctors, I believe, that did call  
4 in from their office, and I did excuse these on a tele-  
5 phone medical excuse under the circumstances of being in  
6 this manner. Doctors that called in for their patients  
7 I did excuse maybe two or three on the phone, I have a  
8 note of the ones that I did on my list. Dr. Nance and  
9 Dr. Lyle's office called, I did excuse two under that  
10 circumstances.

11 COURT: Do you know whether they were black or white?

12  
13 A I have no idea and did not ask, Your Honor. I had no  
14 concern as to their color.

15 Q Does your office have addresses for the potential  
16 jurors?

17 A No. After the list is prepared, we have it. We do  
18 not have addresses of the prospective jurors until the list  
19 has been pulled.

20 Q At the time you get the list, that is the names and  
21 addresses, are you able to tell from the examination of  
22 the prospectives as to the race?

23 A I would say if I examined the list of the addresses,  
24 and would happen to be familiar with the residential area  
25 that would be predominantly black, or white, I could tell,

1 yes. To my knowledge I have never looked at a list in  
2 this manner.

3 Q Were you present and did you participate at any time  
4 when the check was made for those who had criminal  
5 records, disqualified, or undesirable as the letter  
6 indicated?

7 A I was not to my knowledge present in the preparation  
8 of any of this particular list. As I said, in the  
9 earlier days in 1967, I was more active because it was a  
10 completely new law that we were to comply with, and there  
11 were more questions. Mr. Robinson has been the Chairman  
12 of this Board since the beginning in Cabarrus County. I  
13 have not participated to my knowledge in the last three,  
14 four, or five years in any selection.

15 CROSS-EXAMINATION BY MR. ROBERTS:

16  
17 Q Mr. White, when the original disks were drawn on Aug-  
18 ust 4, 1967, for the petty jurors to appear for the Sept-  
19 ember 27, 1976, term was the same procedure utilized then  
20 that has been utilized in the last nine years?

21 A To the best of my knowledge it was. My information  
22 indicates that it was.

23 Q On these disks there is no indication of race, age,  
24 or what not, is there?

25 A No, sir.

1 Q And when you deliver these disks to the Register of  
2 Deeds, you have no idea of the composition of the disks,  
3 is that not correct?

4 A No, sir, none whatsoever.

5 Q With regards to the particular petty jurors that was  
6 summonsed to be here September 27, 1976, as a matter of  
7 fact, the case of State versus Ronnie Wallace Long was  
8 not on calendar for the September 27, term was it?

9 A Mr. Roberts, I'm not sure the date of the preparation  
10 of the calendar. I believe it was only two weeks ago it  
11 was prepared, I don't recall.

12 Q To refresh your memory the case of Mr. Long was  
13 scheduled for trial at the August 7, term.

14 A I recall it was at an earlier date, I do not recall  
15 the exact date, I'm sorry.

16 Q Insofar as the preparation of any jury list, or the  
17 mechanism that go into it from your statutory duties, and  
18 from what you control and govern, there is absolutely no  
19 way to determine a race, age, or anything, is there?

20 A There's nothing that is visible to me that I have any  
21 knowledge of that would indicate age, sex, religion,  
22 politics, or whatever, no indication on the cards.

23 Q Thank you.

24 JOHN R. ROBINSON, JR., BEING FIRST DULY SWORN, TESTIFIED  
25 AS FOLLOWS:

DIRECT EXAMINATION BY MR. FULLER:

Q Would you please state your name, sir?

A John R. Robinson, Jr.

Q I believe you are the Chairman of the Jury Commissioners for this County?

A Yes, sir.

Q How long have you been so?

A Ever since the law has been enacted, I think that was in '67, I believe.

Q Did you participate in the preparation of the report that was previously read by the Clerk?

A Yes, sir.

Q Let me show you a copy of what has been previously identified as Court's Exhibit One. I ask you if you could explain, please, sir? Paragraph number three and more particularly definition employed by the Commission in determining who was ineligible and undesirable?

A I don't have the law. One of them is nolo contendere and, of course, there's three or four things in the law which I do not have. I have got it in my office but I do not have it here. Some of the things that would disqualify was the fact anybody over about seventy-seven, who cannot hear well, we disqualify them.

Q How do you determine?

1 A We generally find out from the police department, or  
2 sheriff, or Kannapolis Police Department. They know a  
3 lot of people in Cabarrus County. Most of them have been  
4 raised right here in Cabarrus County. Now, about these  
5 roll lists you are speaking of, we take the roll list to  
6 the sheriff's department and sometimes the sheriff comes  
7 over to our office on Church Street, and go over name by  
8 name and he knows most of them himself personally, but  
9 sometimes he also brings a couple of deputys with him;  
10 and they in turn help him check the names off of the ones  
11 who are supposed to be disqualified, or the same thing is  
12 done in the Concord Police Department. The Police Chief  
13 and some of his deputys and myself all together go down  
14 the list name for name. This also occurs in Kannapolis  
15 now. Mr. Boggs, Edgar G. Boggs, takes the list to  
16 Kannapolis to the Kannapolis Police Department, that is  
17 his territory from the standpoint of the jury list, and  
18 he goes over the list with the Chief in Kannapolis, and  
19 that's the way we disqualify these people who are not  
20 eligible to be on the jury.

21 Q On the disqualifications you made, is that in the  
22 nature of a recommendation from the Sheriff to the  
23 Commissioners, or does the Sheriff just line through the  
24 names?

25 A Well, I give him a red pencil and he marks that red

1 through that particular name.

2 Q Any record made of the reason he lines through the  
3 names with the red pencil?

4 Q He generally tells us as we go down the line. When  
5 you are running through about twenty thousand names, it  
6 would be pretty hard to keep a record of every name dis-  
7 qualified.

8 Q Does the Commission vote in each case where the  
9 Sheriff red pencils anyone as to whether they are to be  
10 kept on?

11 A I'm generally there with him and I generally question  
12 him as---

13 Q What reason does he give to red line these particular  
14 people?

15 A If I had the law which I do not have, some of the  
16 people are mentally incompetent, nolo contendere and  
17 anything, and anybody who has had a felony, those three  
18 things stick out in my mind at the present time.

19 COURT: You are talking about nolo contendere to a  
20 felony, or plea of guilty?

21  
22 A The book just says nolo contendere. I mean the law  
23 I'm speaking of now.

24 COURT: I believe it says nolo contendere to a felony.  
25

1 Q Do you take the Sheriff's, or Chief's statement  
2 concerning a person, or do you make some kind of  
3 independent inquiry?

4 A I don't make any independent inquiry because I don't  
5 actually have the time to, but I know all these individual  
6 people personally, and I know they are honest people, and  
7 they wouldn't take these people off that wouldn't make a  
8 good juror.

9 Q Is there some understanding the Chief, or Chief of  
10 Police believe they would make a good juror before they'd  
11 be on the list?

12 A No, but just some people they know by law should be  
13 disqualified.

14 Q What did you have with you when you were talking to  
15 the Sheriff?

16 A A stack of papers about that thick, yellow sheets,  
17 and we go down the list.

18 Q Do you go over the law and question with the Sheriff?

19 A Yes, sir.

20 Q Describe what you did when you did that?

21 A I gave him the law for him to read himself. He knew  
22 the law himself. I had the book and he read the law.

23 Q How did you and the Sheriff define the term un-  
24 desirable?

25 A Well, as I say, some people are hard of hearing, which



1 he knows in person himself, and some mentally incompetent,  
2 and as I said, nolo contenderes, and felonies, and any-  
3 thing this law requires that they not be on the jury.

4 Q You say mentally incompetent, you talking about  
5 people in the Sheriff's opinion are not competent, or the  
6 ones declared by the law?

7 A In his opinion the ones he brings down to Raleigh and  
8 brings back, and most of them are declared by the Court to  
9 be mentally incompetent.

10 Q Are you just assuming, or do you know for a fact that  
11 the only people who are removed are those who have been  
12 judicially declared mentally incompetent?

13 A I'm just assuming. To tell you the truth about it,  
14 I don't think we actually marked through too many people  
15 that were mentally incompetent because we don't have too  
16 many around here.

17 Q Did you make an independent determination of those  
18 suggested for disqualification by the Sheriff, or Chief  
19 of Police?

20 A I didn't make any personally, no, sir.

21 Q To your knowledge, did anybody on the Jury Commission  
22 make such?

23 A Well, now we have had these two individuals which were  
24 on my Commission, Mr. Edgar G. Boggs, and Mrs. Nixson. Mr.  
25 Boggs investigated some in Kannapolis and Mrs. Nixson in-

1     vestigated some in Mt. Pleasant and Harrisburg.

2     Q   Did you cause anyone to be removed from the list?

3     A   Not me personally, no, sir.

4     Q   Is it correct to say then that you turned over all the  
5     red penciling to the Sheriff?

6     A   Well, all those three people, yeah.

7     Q   Then on your own you did not have anybody stricken,  
8     is that right.

9     A   No, sir, for I'm not that familiar with Cabarrus  
10    County.

11    Q   So, is it correct to say then that basically when you  
12    start with the roll list and you end up with those who  
13    have not been marked out by either the Sheriff of  
14    Cabarrus County, or Chief of Police, or Kannapolis?

15    A   Yes, sir, that is correct.

16    Q   What is the race of the Sheriff of Cabarrus County?

17    A   The what, sir?

18    Q   What is the race of the Sheriff of Cabarrus County?

19    A   I don't understand what you mean?

20    Q   Sheriff, is the Sheriff black or white?

21    A   White.

22    Q   And Chief of Police in Kannapolis?

23    White.

24    Q   How about the members of the Jury Commission?

25    A   All white.

1 Q And the third person you indicated?

2 A Mr. Boggs?

3 Q You indicated the Sheriff and Chief of Police and one  
4 other person?

5 A Chief of Police of Kannapolis, and Chief of Police  
6 Concord, and Chief of Police of Cabarrus County.

7 Q What is the race of the Chief of Police of Concord?

8 A He's a white man.

9 Q Have you ever checked the criminal record of anyone  
10 whose name was red lined by the Sheriff, or the Chief of  
11 Police for having any criminal record, have you ever  
12 verified that such criminal record existed?

13 A No, sir, I have never verified it for they have  
14 already verified it.

15 Q Now, I'm not trying to be repetitious but I would like  
16 to get you to say with some specificity, in that letter when  
17 you say people were removed you say both disqualified and  
18 undesirable. I'd like you to tell the Court what you mean  
19 when you say they were undesirable?

20 A I am assuming as one who is too old to be on the jury,  
21 mentally incompetent, or has some criminal offence which  
22 prevents them to be on a jury.

23 Q Now the law disqualifies somebody with a felony  
24 conviction anyway, doesn't it?

25 A That's right.

1 Q So, they are disqualified by operation of the law?

2 A That's right. Correct.

3 Q Not because they are in a category called undesirable.  
4 What I'm trying to find out is who is included in this  
5 particular County in a category including undesirable to  
6 be on the jury?

7 A I would say those to be mentally incompetent and too  
8 old.

9 Q Are the people who are mentally incompetent also  
10 prohibited of serving on a jury by law?

11 A By law, yes.

12 Q Do you know what standard is applied by the Sheriff  
13 and Chiefs of Police in determining who is undesirable  
14 as opposed to who is legally disqualified?

15 A Well, as far as I know the Sheriff and the Chief are  
16 well qualified to determine whether a person is desirable  
17 or undesirable.

18 Q And what standard as a member of the Commission, what  
19 standard did you give them to use in determining whether  
20 or not somebody is desirable, or undesirable?

21 A Well, we discuss it among ourselves, and also, as I  
22 said before, I let them read the law, which was passed  
23 by the General Assembly. We don't mark everybody off,  
24 you'd be surprised how few people we mark off. That's the  
25 reason we have got four thousand people on this list here.

1 We actually don't need but about twenty-five hundred.

2 COURT: How many were marked off?

3  
4 A I just couldn't call off the top of my head.

5 COURT: Is there a list available of those who were  
6 marked off?

7  
8 A I don't know for sure, I'll have to go back and check  
9 my file.

10 COURT: How long would that take you to get that file?

11 A I just moved from my office to another office, and  
12 I'm really messed up in my office, and files and every-  
13 thing.

14  
15 COURT: We'll take a brief recess.

16 A I say there's not anything wrong, I'm sure I got the  
17 list somewhere.

18 Q Mr. Robinson, I want to show you, if Your Honor please,  
19 the Court, this is a xerox copy from the census data thing  
20 at the library. This report shows the approximate pop-  
21 ulation of Cabarrus County?

22 A Yes, sir.

23 Q Eighteen thousand for the City of Concord, isn't it?

24 A I'm not really sure.

25

1 Q What is the population for?

2 A I don't know about Cabarrus County but the City of  
3 Concord is approximately eighteen thousand people.

4 Q Well, does it sound about right that the population  
5 for Cabarrus County is approximately seventy-eight  
6 thousand?

7 A No, it doesn't.

8 Q Do you know what the population is?

9 A I don't know exactly what the population is. I know  
10 on the vote of registration books we have approximately,  
11 seems like thirty-four thousand people registered on the  
12 vote of registration books. We took one name out of  
13 every seven.

14 Q Now, as to those people who were excluded, say you  
15 can't find the list?

16 A I can't find it right now because I just moved into a  
17 new office and my stuff is mixed up all over creation. I  
18 don't know for sure I even have the list.

19 Q Is there a duplicate list of those lists?

20 A Not of that, no, sir. All the cards were typed from  
21 that list.

22 Q I think that's all we have of this witness, Your Honor.

23 CROSS-EXAMINATION BY MR. ROBERTS:

24  
25 Q Mr. Robinson, to your knowledge was any member deleted

1 from that list solely on the basis of race?

2 A No, sir. Certainly wasn't.

3 Q Thank you very much.

4 J. B. ROBERTS, BEING FIRST DULY SWORN, TESTIFIED AS  
5 FOLLOWS:

6  
7 DIRECT EXAMINATION BY MR. FULLER:

8 Q State your name and position, please?

9 A J. B. Roberts, Sheriff of Cabarrus County.

10 Q I believe you heard Mr. Robinson testify concerning---

11 A Well, now I wasn't in here, I was out and I came in  
12 just before the recess and I didn't get to hear.

13 Q Would you tell in your own words what function you had  
14 in the selection, or for that matter the exclusion of  
15 prospective jurors in the County?

16 A Mr. Robinson gives us a list, or has a list, and I  
17 believe it has, I believe the last time I went up to the  
18 registration board on Church Street, he had a list, and I  
19 can't remember in times past, either my chief or some of  
20 the lieutenants go with me and we go over the list; and  
21 people that are old, people we have carried to State  
22 Hospitals that we feel are not able, we draw a line  
23 through their names, people that we know that have been  
24 convicted of a felony, or people, if we find a name, a lot  
25

1 of the times we'll find the same name on the list twice,  
2 and we mark through that.

3 Q Now, Mr. Robison indicated in a letter, let me show  
4 you this, Sheriff, I'd like your attention to paragraph  
5 three.

6 A Yes, sir.

7 Q Now, Mr. Robinson indicated that one of the criteria  
8 for exclusion was people who were undesirable.

9 A Yes, sir.

10 Q How did you apply? What was the standard?

11 A People that are old, that can't get to the courtroom,  
12 over in the old courthouse, I remember there was one man,  
13 his name was on, he was on crutches not able to get up  
14 because we didn't have an elevator. People that can't  
15 hear, people we carried to State Hospitals, they are  
16 people that are undesirable. This is my definition. We  
17 used to pick the jury years ago with the county commi-  
18 ssioners and this was the same rule that we used then, and  
19 then after we changed to the Jury Commission we practi-  
20 cally---just the same thing.

21 Q As far as your function in the process it is the same  
22 as it has been for some number of years?

23 A Yes, sir. Picking what he says are undesirable,  
24 people that would be disqualified because of old age, not  
25 able to make it to town.



Q What else is included in undesirable, or disqualified?

A That's the only thing other than a felony, if we know of somebody that's been convicted of a felon we take them off.

Q That's all.

CROSS-EXAMINATION BY MR. ROBERTS:

Q Sheriff Roberts, out of the list of raw lists of approximately twenty thousand names, I think Mr. Robinson referred to, how many red lines would you think that you would draw on that list?

A Oh, I don't know. Probably a dozen or so. Through the years by doing it for years I can't remember from one time to another how many that I drew through.

Q A dozen out of twenty thousand?

A I'd say a couple of dozen probably, that many or more.

Q Did I understand your testimony to be as the only time you drew the line was when you had personal knowledge that a person either could not see, nor hear, or you were personally aware that they had been taken to Raleigh for mental problems?

A Somebody we personally knew. If we don't know them, we couldn't mark them off. This is only people that I know, and that's why I took some of the lieutenants, or other people usually with me because they know people I

1 wouldn't know, or don't remember, and you look over that  
 2 list so long, you know, the names after awhile run  
 3 together, you just can't remember. People you don't know  
 4 the names, of course, we wouldn't bother them. A lot of  
 5 people we would actually summons them, we get them that  
 6 have died, and people that have been dead, and all the  
 7 checking we do, we still miss them and some of them we  
 8 might know, but we look over the list, and you still miss  
 9 some of them.

10 Q Sheriff, have you or anyone working under your  
 11 supervision and authority ever deleted a name from that  
 12 roll list because of their race?

13 A No, sir.

14 Q And how long have you been Sheriff of this County?

15 A Twenty years. I have been with the Sheriff's Depart-  
 16 ment about twenty-five years.

17 Q And in your opinion have not negroes served regularly  
 18 on the juries here?

19 A Yes, sir. Ever since I've been connected with the  
 20 Sheriff's Department we have always had---

21 Q To your knowledge has anyone ever been excluded be-  
 22 cause he was a black man?

23 A No, sir.

24 Q Or a red man?

25 A No, sir.

1 Q I believe we used to have several Chinamen who lived  
2 in the County who couldn't serve because they couldn't  
3 understand English, is that right?

4 A We have never taken anybody off because of race.

5 Q And the list that's prepared by the Register of Deeds  
6 and given to you has no symbol, or anything there to tell  
7 you what their race is, does it?

8 A No, sir. We don't know unless we personally know the  
9 person. We have no way of knowing what their race is  
10 according to the registration books.

11 RE-DIRECT EXAMINATION BY MR. FULLER:

12  
13 Q You know the approximate population of Cabarrus  
14 County?

15 A The last census was about '74, probably close to  
16 eighty thousand now. That's just a guess, we've grown  
17 several thousand the last few years. I'd say since '74,  
18 we're close to eighty thousand.

19 Q Do you know the percentage of whites in the County?

20 A Well, the City I believe we probably have more  
21 colored in the City than we would have in the County.  
22 Our County population approximately is about fourteen,  
23 fifteen per cent maybe.

24 COURT: Total all over the County including the towns?  
25

1 A I wouldn't say it would be that much all over the  
2 County, I think the City would be probably higher.

3 Q Let me show you a xerox of the document taken from  
4 the census record. I'll ask you if that looks about  
5 right to you that the '74 census shows seventy-four total,  
6 and sixty-five thousand white?

7 A This is nearer now, and this is the no non-white.

8 Q Based on your experience does that look about right,  
9 it would be about twenty per cent black in the County?

10 A Well, I doubt it would be quite that much in the  
11 County, but probably a little more in the City. And I  
12 believe our population, I was thinking our '70 census  
13 was seventy-four thousand instead of seventy-eight, that  
14 doesn't look right to me.

15 A I think I'm misleading you with my question. Sheriff  
16 Roberts, when I say that the population of Cabarrus County  
17 is about twenty per cent black, I don't mean the County  
18 excluding the City, but I mean the whole County taken  
19 together.

20 A I don't think it was quite that high, could be, it  
21 was just a guess.

22 COURT: The Clerk I believe testified here a few minutes  
23 ago that out of the fifty that the Court ordered this  
24 morning special venire, that so far, as I believe, he  
25 said twenty-six had been served and had come in here less  
three or maybe four people that had been excused because

1 of illness, or one was a doctor at the hospital needed  
2 there that I excused. Those other twenty people were  
3 they not reached because they were black?

4 A No, sir. We wasn't able to find them on our thinking  
5 that we continue to try because a lot of them working and  
6 were out of the county, we hope to pick the rest of them  
7 up tonight. We have no way of knowing whether they're  
8 black until we contact them.

9  
10 COURT: You will continue to try and find all those  
11 people tonight?

12 A Yes, sir.

13  
14 COURT: Do you have any idea what ratio?

15 A I have absolutely no idea we have no idea what their  
16 race might be until we contact them, because we just have  
17 a name, we don't know by the name what the race is.

18  
19 COURT: But you haven't systematically, or have you  
20 systematically failed to subpoena somebody that was on  
21 the list after they were drawn because they were black?

22 A No, sir. We subpoena everybody we don't excuse any-  
23 body. We had people to come in today that we subpoenaed  
24 that were not able to get up here. If they're not able,  
25 we'll go pick them up and bring them. We feel the Judge

1 or somebody else other than us excuses. We don't excuse  
2 anyone after they have been summonsed after they are on  
3 the list.

4 DEBORAH BALLINGTON, BEING FIRST DULY SWORN, TESTIFIED AS  
5 FOLLOWS:  
6

7 DIRECT EXAMINATION BY MR. FULLER:

8 Q Would you state your name, please, and where you are  
9 employed?

10 A Deborah Ballington. I work for Chambers, Stein,  
11 Ferguson and Beckham.

12 Q Did you obtain some census information at my request  
13 earlier today?

14 A Yes.

15 Q Would you describe in your own words what you did and  
16 what you got?

17 A I went to the library and told the records librarian  
18 what information I needed. She handed me the book and I  
19 looked over the information. I said I'd like to have a  
20 copy of this.

21 Q What information did you tell her to look for?

22 A That I needed the total population of Cabarrus County,  
23 and then when she gave me the information I said I needed  
24 it broken down.

25 Q Is that a copy of the official census data you were

1 shown in the library?

2 A Yes, it is.

3 Q What does that show to be the overall population as of  
4 the 1974 update of the 1970 census?

5 A Seventy-eight thousand, one hundred and ninety-six.

6 Q What does it show the white population?

7 A Sixty-five thousand, four hundred and eighty-six.

8 Q And the non-white?

9 A Twelve thousand, seven hundred and ten.

10 Q Do you know what percentage that makes the white  
11 population according to those figures?

12 A Well, no.

13 Q That's all.

14 CROSS-EXAMINATION BY MR. ROBERTS:

15  
16 Q In your non-white population according to that census,  
17 I think you saw something less than thirteen thousand  
18 people, is that correct? Does it tell you how many of the  
19 non-white population are black?

20 A No, it just says non-white.

21 Q It does not distinguish between other minority groups?

22 A No, sir.

23 Q Thank you very much.

24 JAMES O. BONDS, BEING FIRST DULY SWORN, TESTIFIED AS  
25

FOLLOWS:

DIRECT EXAMINATION BY MR. FULLER:

Q Would you state your name and occupation, please, sir?

A James O. Bonds, Register of Deeds, Cabarrus County.

Q How long have you been so served?

A Be twelve years this December.

Q Would you state briefly in your own words what process you followed in the selection and notification of prospective jurors in Cabarrus County?

A Yes, sir. Well, now where I came in the picture I kept the cards that the Jury Commission compiled, and then when the Clerk draws the cards, the disks from his box of unused disks why he transcribes the numbers to a paper and brings them to me and I match the numbers with the cards I have in my office.

Q What information is contained on the cards and who places it there, please?

A Just the persons the jurors number, which is the number he has, plus his name and address.

Q What do you do with the cards after they are first established?

A You mean when they are brought to me?

Q Yes, sir.

A I kept them under lock and key in my vault room, and



1 when the disks are brought to me then we open the cabinet,  
2 select the card accordingly to the number, and then we  
3 print the jury list.

4 Q What steps are involved in printing the jury list?

5 A We just take it by the card and put the person's name  
6 and address and his disk number beside his name.

7 Q After the list, or pool is initially formulated do  
8 you take any steps to purge it periodically?

9 A I don't follow.

10 Q Let's say number ten is Mr. Smith and Mr. Smith passes  
11 away, do you at any time do a periodic systematic review?

12 A No, sir, not once it's in my hands.

13 Q What did you do with respect to the special jurors  
14 requested for today?

15 A When we got the numbers, we put them on the list,  
16 delivered them to the Sheriff. I'd say it took us just  
17 about thirty, thirty-five minutes to compile it.

18 Q That's all.

19 CROSS-EXAMINATION BY MR. ROBERTS:  
20

21 Q Mr. Bonds, at any time in performing your duties under  
22 status with regards to jury selection, do you know at any  
23 time the race of the person that you are dealing with on  
24 that card?

25 A No, sir.

1 Q Unless of course you'd happened to recognize someone's  
2 name you knew?

3 A That is correct.

4 COURT: Any other witnesses you want me to call for you,  
5 Mr. Fuller?

6  
7 MR. FULLER: No, Your Honor.

8 MR. ROBERTS: The State would ask the Court to take  
9 judicial notice that on the figures introduced it is  
10 sixteen per cent not twenty.

11  
12 COURT: Well, they speak for themselves on percentage.  
13 From this evidence here I don't believe it shows any  
14 systematic exclusion of jurors because of race, and the  
15 Court so finds. I'll deny your Motion, and if it is  
16 agreeable I'll make what other findings needed to be made  
17 later on.

18 COURT: Out of the presence of the jury, let the record  
19 show that by stipulation the District Attorney for the  
20 State and Attorneys for the Defendant have agreed that the  
21 Court can instruct the jury, prior to the voir dire ex-  
22 amination, which I'll instruct them on first thing to-  
23 morrow morning when we start the selection of the jury  
24 in this case that if the defendant is found guilty of  
25 first degree rape, that he will receive a mandatory life

imprisonment sentence; that if he's found guilty of second degree rape he will receive a sentence in the discretion of the Court up to life imprisonment, from zero to life imprisonment. In the case of first degree burglary, that if the defendant's found guilty of that, of first degree burglary, that he will receive a mandatory life sentence. If the defendant should be found guilty of second degree burglary he would receive in the discretion of the Court from zero to life imprisonment.

MR. FULLER: The defendant moves to quash the indictment charging rape alternatively to require the State to elect upon which indictment to proceed.

MOTION DENIED.

COURT: For the record, how many of you are black, would you hold up your hands? Let the record show of those who are here this morning two of them are black. The Court instructs you that the defendant, Ronnie Wallace Long, was charged in a Bill of Indictment with first degree rape. I instruct you that the penalty for first degree rape is a mandatory life imprisonment sentence. I instruct you that the penalty for second degree rape is from zero to life imprisonment in the discretion of the Court. The

defendant is also charged in a Bill of Indictment with first degree burglary. The Court instructs you that the penalty for first degree burglary is a mandatory life sentence. The Court instructs you that the penalty for second degree burglary is from zero or nothing to life imprisonment in the discretion of the Court. Madam Clerk, will you call a jury into the jury box. (There are five total blacks among this jury). Twelve jurors are called into the box.

MR. ROBERTS: Ladies and gentlemen of the jury, yesterday you heard the Bills of Indictment read in this matter wherein the State of North Carolina alleges in a Bill of Indictment that the defendant, Ronnie Wallace Long, did on, or about the 25th day of April, 1976, vagariously entered the home of one Juddy McKinney Bost, and after having done so committed rape upon her body. To these charges through his attorney he has entered a plea of not guilty. The burden therefore falling upon the State of North Carolina to prove his guilt, and to prove his guilt beyond a reasonable doubt, before the State is entitled to a conviction in this matter. Now, how many of you people have ever served on any type of jury before, would you please raise your hand? One. By way of explanation, let me say this that the trial of any law suit particular-

1 ly criminal law suits is not what you are accustomed to  
2 to seeing on television, none of the testimony you hear  
3 is according to a prepared transcript. Essentially a  
4 trial is the selection of the jury, presentation of evi-  
5 dence, the contention of the attorneys, the statements  
6 of the Court as to the evidence and the law, and then the  
7 jury's deliberation of a verdict. It took me about ten  
8 seconds to say that but this trial could conceivably last  
9 for days, therefore, the State and the defendant is con-  
10 cerned about the health of all of you. Do any of you  
11 know any -- have any problems with your health that a  
12 prolonged trial would interfere with? Now, it is obvi-  
13 ous as you have found out there's going to be a lot of  
14 sitting, a lot of waiting and trials are by necessity  
15 long. It could be tedious, laborous, so if any of you  
16 have any health problems, we would like to know that  
17 because if someone has a problem bothering them, we are  
18 of the opinion you cannot give the evidence the attention  
19 it needs. If any of you have any physical illness that  
20 could keep you from being attentive to this evidence,  
21 would you please raise your hand at this time? Mrs.  
22 Fortson, do you feel that a long prolonged trial would  
23 be difficult for you to sustain?  
24 MRS. FORTSON: Well, I have arthritis real bad in my  
25 knees and sometimes it bothers me from sitting too much,

1 or bothers me from walking too much.

2 MR. ROBERTS: I assume from my knowledge of arthritis  
3 that the damp weather aggravates it?

4 MRS. FORTSON: It bothers me about all the time practical-  
5 ly.

6 MR. ROBERTS: Is this situation painful to you if you  
7 can't get up and move?

8 MRS. FORTSON: Sometimes I can't hardly walk. Awhile ago  
9 when I got up here, I kind of staggered a little bit, you  
10 know, got overbalanced.

11 MR. ROBERTS: The State would ask the Court in its dis-  
12 cretion to excuse this lady because of the anticipated  
13 time of this trial.

14 COURT: All right, I'll excuse her and I'll excuse her for  
15 the term.

16 CLERK: Holland James Skidmore.

17 MR. ROBERTS: Mr. Skidmore, sir, from where you were  
18 seated did you hear the questions I just put to the jury?

19 MR. SKIDMORE: Yes, sir.

20 MR. ROBERTS: Do you have any physical ailments that would  
21 interfere with your sitting?

22 MR. SKIDMORE: No, sir.

23 MR. ROBERTS: Now, ladies and gentlemen of the jury, His  
24 Honor, told you briefly a little bit about jury selection.  
25 I want to be a little more particular about it. The State

1 of North Carolina is entitled to a fair trial. The De-  
2 fendant is entitled to a fair trial, and the whole purpose  
3 of our asking you questions is to take your answers and  
4 evaluate them and determine whether or not you can be  
5 impartial in this particular trial. We have to ask  
6 questions to evaluate your predisposition to sit in this  
7 case and be fair to both sides, because under the law we  
8 are both entitled to a trial by twelve jurors who are  
9 impartial, who at this moment have no opinion as to guilt,  
10 or innocence, no prejudices that would prevent you from  
11 hearing the evidence as it is, and we have to ask these  
12 questions. We have to be blunt in certain circumstances,  
13 and in certain areas so we can evaluate your ability to  
14 sit as jurors, and as His Honor says neither the State  
15 or defendant wishes to embarrass you, but we have to ask  
16 you these questions. Now, does any member of this jury  
17 personally know the defendant in this case, Ronnie Wallace  
18 Long, who sits with his attorneys at the far end of this  
19 table with the tinted glasses? If you know him, please  
20 raise your hand and indicate that fact to me. Seated  
21 behind him are his parents, Mr. & Mrs. Long. Do any of  
22 you know them? If you do, please raise your hand. The  
23 defendant is represented by Mr. Carl Atkins seated im-  
24 mediately to my right; Ms. Evoyne Mims seated to his  
25 right, and Mr. Jim Fuller who is not in the courtroom at

1 this time. Do either of you know either of those  
2 attorneys? If you do, please raise your hand to indicate  
3 that fact. The State alleges, ladies and gentlemen of  
4 the jury, that this crime occurred on April 25, 1976.  
5 There was considerable publicity in the newspaper. I  
6 want to ask you at this time if you have read, or heard  
7 anything about this case, would you please raise your  
8 hand and keep your hand raised until I ask you please to  
9 lower them. Thank you. Now, Miss Causby, ma'am, you did  
10 not raise your hand.

11 MISS CAUSBY: I don't know nothing about it.

12 MR. ROBERTS: Do you subscribe to the Concord Tribune?

13 MISS CAUSBY: No.

14 MR. ROBERTS: Kannapolis Daily Independence?

15 MISS CAUSBY: No.

16 MR. ROBERTS: Do you recall reading anything in these  
17 newspapers?

18 MISS CAUSBY: I hardly ever read any paper.

19 MR. ROBERTS: Do you recall seeing or hearing anything  
20 about this matter on your television set?

21 MISS CAUSBY: No.

22 MR. ROBERTS: What part of the County do you live in,  
23 Miss Causby?

24 MISS CAUSBY: I don't know what you mean what part of the  
25 County.



1     MR. ROBERTS: What is your address?  
2     MISS CAUSBY: Route four. I live in Shady Brook Section.  
3     MR. ROBERTS: Of Kannapolis?  
4     MISS CAUSBY: Yes.  
5     MR. ROBERTS: Mr. Johnson, I believe you indicated, sir,  
6     you knew nothing about this case is that correct?  
7     MR. JOHNSON: Yes, sir.  
8     MR. ROBERTS: Do you not recall reading about it in the  
9     newspapers.  
10    MR. JOHNSON: I don't take the newspaper right now. I just  
11    moved and I'm on the Salisbury route. It's Rockwell, but  
12    it's Salisbury route.  
13    MR. ROBERTS: You live in Cabarrus County?  
14    MR. JOHNSON: Yes, sir.  
15    MR. ROBERTS: But the route is a Salisbury route?  
16    MR. JOHNSON: Route 1, Rockwell.  
17    MR. ROBERTS: What particular road?  
18    MR. JOHNSON: Kluttz Road.  
19    MR. ROBERTS: How long have you lived at that particular  
20    location?  
21    MR. JOHNSON: Three months.  
22    MR. ROBERTS: Where did you live prior to that time?  
23    MR. JOHNSON: In Kannapolis.  
24    MR. ROBERTS: At that time you didn't subscribe to the  
25    Daily Independence?

1 MR. JOHNSON: Yes, sir. At that time I did.

2 MR. ROBERTS: And do you not recall reading anything about  
3 this case?

4 MR. JOHNSON: Well, I was building a house. I built it  
5 by myself, I worked day and night on it, sir.

6 MR. ROBERTS: Mr. Haigler, you did not raise your hand  
7 did you, sir?

8 MR. HAIGLER: Yes, sir.

9 MR. ROBERTS: You did raise your hand?

10 MR. HAIGLER: No, sir, I didn't.

11 MR. ROBERTS: Where do you live in the County, Mr.  
12 Haigler?

13 MR. HAIGLER: Mt. Pleasant.

14 MR. ROBERTS: Do you not subscribe to the Concord Tribune?

15 MR. HAIGLER: Yes, sir, but I hardly ever read the paper.  
16 It's very seldom I pick it up.

17 MR. ROBERTS: So you have never read nor heard anything  
18 about this case?

19 MR. HAIGLER: No, sir.

20 MR. ROBERTS: Ladies and gentlemen of the jury, as you  
21 arrived at the courthouse this morning, if you came in the  
22 front door, I assume you saw people there with picketing  
23 signs. If you saw that, would you please raise your hands  
24 and indicate that fact? All right. Thank you. Now,  
25 ladies and gentlemen of the jury, the State of North

1 Carolina, as well as the defendant and his attorneys,  
2 intend for this case to be tried in this courtroom, and  
3 not on the public streets of the city of Concord. Now,  
4 I propose this to all twelve of you, if you are affected  
5 by that, that is if you feel that these people are in-  
6 timidating you, you cannot be fair to the State. If you  
7 feel and get angry with the defendant over it, then you  
8 can't give him a fair trial. Now, I assure you that the  
9 attorneys sitting to my right and the people sitting here  
10 want to try this case independent of anything that may go  
11 on outside this courtroom, and we would like to ask you,  
12 at this time, if any of you feel any sense of intima-  
13 tion merely by the fact that people are picketing, or  
14 parading in the streets, if this would possibly affect  
15 your verdict? Would you please raise your hands and  
16 indicate that fact at this time? You see, don't you,  
17 this could affect you in two ways. It could make you  
18 prejudiced either against the defendant, or the State  
19 and, of course, if that occurs then we would not be  
20 getting a fair trial in this courtroom, based on the evi-  
21 dence and the law, and it is tremendously important to  
22 both parties that this case be tried in this courtroom  
23 and not on the streets. Do I understand that none of you  
24 have raised your hands, that you will not become intimi-  
25 dated by these people and hold it against the State or

1 the defendant? We do not want people to be affected by  
2 anything that happens outside this courtroom. Do any of  
3 you feel, or even suspect that you would possibly be  
4 affected by anything that happened outside this court-  
5 room this week? Can I assume then by your failure to raise  
6 your hands, you could care less about what is going on in  
7 the streets and by guided by the evidence you hear in this  
8 courtroom? If you can't do that, please raise your hand  
9 and indicate that fact. Now, ladies and gentlemen of the  
10 jury, it's obvious in this case that the defendant is a  
11 black man and that the prosecuting witness for the State,  
12 Mrs. Post, is a white woman. In the State of North Caro-  
13 lina the laws apply equally to all people. All of our  
14 people are citizens of the State and shall be treated as  
15 citizens, given all rights that accrue to citizenship.  
16 Are there any members of this jury who cannot judge this  
17 case solely between the acknowledgment of citizens  
18 against each other, rather than as an issue of black  
19 against white, or white against black? If you cannot do  
20 that, would you please raise your hand and indicate that  
21 fact at this time? The very first thing His Honor will  
22 tell you in his charge is that you must take the law as  
23 he said it is, as our Legislature has enacted and apply  
24 it to the facts in this case, so that all people in this  
25 State will be treated equally under the law. Now, the

1 reason he says that is this, some people have mis-  
2 conceptions about what the law is. They want to put the  
3 law that they think it is to the facts rather than what  
4 he says it is. Some people want to put the law to the  
5 facts that they think the law ought to be rather than  
6 what it is. So, therefore, it becomes very important  
7 that you commit yourselves to the proposition that you  
8 can and will accept the law that His Honor says applies  
9 in this State without substituting applied conceptions,  
10 or substituting your own opinion as to what the law ought  
11 to be. If you can't take the law as exists in this case  
12 and apply it to the facts in this case, please raise your  
13 hand and indicate that fact to me. Mr. Richey, sir, where  
14 do you live in the county?  
15 MR. RICHEY: City of Concord, Odell Drive Northwest.  
16 MR. ROBERTS: What is your occupation, sir?  
17 MR. RICHEY: Telephone technician, Concord Telephone  
18 Company.  
19 MR. ROBERTS: Are you married, Mr. Richey?  
20 MR. RICHEY: Yes, sir.  
21 MR. ROBERTS: Is your wife publicly employed?  
22 MR. RICHEY: No, sir.  
23 MR. ROBERTS: Homemaker?  
24 MR. RICHEY: Yes, sir.  
25 MR. ROBERTS: You have any children, sir?

1 MR. RICHEY: Yes, sir.

2 MR. ROBERTS: Mr. Richey, you indicated, sir, that you  
3 had heard something about this case, or that you had  
4 heard it discussed, or that you had seen something about  
5 it on the television. I ask you do you recall at this  
6 moment what, if anything, you read, saw, or heard?

7 MR. RICHEY: Nothing specifically, sir.

8 MR. ROBERTS: And by the way, ladies and gentlemen, if the  
9 State of North Carolina through me, or the defense lawyers  
10 ask you if you have opinions that you formed, please don't  
11 state those opinions. We are not interested and it is not  
12 fair to say what you think. What we want to know is, if  
13 you have an opinion, and please answer yes, or no, don't  
14 please blurt out an opinion, because your opinion at this  
15 point doesn't mean a thing. We are merely, as I said,  
16 trying to evaluate your impartiality. Now, Mr. Richey,  
17 you say you have some recall of the facts?

18 MR. RICHEY: Yes, sir.

19 MR. ROBERTS: Did you at the time that you read, or heard,  
20 or saw what you experienced, form or express any opinion  
21 as to guilt, or innocence of this defendant?

22 MR. RICHEY: No, sir.

23 MR. ROBERTS: More importantly, do you, at this moment,  
24 have any opinion as to his guilt, or his innocence?

25 MR. RICHEY: No, sir.

1 MR. ROBERTS: You understand do you that when a defendant  
2 pleads not guilty, the law of North Carolina enshrouds  
3 him with a cloak of innocence, and he remains innocent  
4 unless, and until the State can prove his guilt to you  
5 beyond a reasonable doubt? You understand that, do you?  
6 MR. RICHEY: Yes, sir.  
7 MR. ROBERTS: And at this moment, you say you have no  
8 opinion as to his guilt, or his innocence?  
9 MR. RICHEY: Yes, sir.  
10 MR. ROBERTS: Mr. Allison, where do you live in the county?  
11 MR. ALLISON: Township 12, City of Concord.  
12 MR. ROBERTS: Are you publically employed?  
13 MR. ALLISON: I am.  
14 MR. ROBERTS: Where do you work?  
15 MR. ALLISON: Field Engineer, Burroughs Corporation.  
16 MR. ROBERTS: Are you married, Mr. Allison?  
17 MR. ALLISON: Yes, sir.  
18 MR. ROBERTS: Do you have children?  
19 MR. ALLISON: Yes, sir.  
20 MR. ROBERTS: Is your wife publically employed?  
21 MR. ALLISON: Yes, sir.  
22 MR. ROBERTS: What is the nature of the work she does?  
23 MR. ALLISON: Bookkeeper.  
24 MR. ROBERTS: Now, Mr. Allison, you sir, also stated that  
25 you had some prior knowledge of this case through either

1 the newspaper, or news media. Do you recall presently  
2 what you have read?

3 MR. ALLISON: Just paper

4 MR. ROBERTS: Now, Mr. Allison, after having read it did  
5 you at that time form, or express any opinion as to the  
6 guilt or innocence of the defendant?

7 MR. ALLISON: No.

8 MR. ROBERTS: Do you, more importantly, at this time, have  
9 any opinion as to his guilt or innocence?

10 MR. ALLISON: No.

11 MR. ROBERTS: And you, sir, if you are chosen to sit on  
12 this jury do you feel that you could hear the evidence in  
13 this case and apply the law to that evidence, and reach  
14 your verdict solely on what you see or hear in this court-  
15 room?

16 MR. ALLISON: Yes, sir.

17 MR. ROBERTS: Mr. Bonds, sir, where do you live in the  
18 county?

19 MR. BONDS: I live in Kannapolis at Cartown.

20 MR. ROBERTS: Mr. Bonds, are you presently employed?

21 MR. BONDS: No, sir, I'm retired.

22 MR. ROBERTS: And who did you work for before your  
23 retirement, Mr. Bonds?

24 MR. BONDS: Cannon Mills.

25 MR. ROBERTS: And are you married, sir?



1 MR. BONDS: Yes, sir.

2 MR. ROBERTS: Was your wife ever publically employed?

3 MR. BONDS: Yes, she's working now.

4 MR. ROBERTS: Where?

5 MR. BONDS: She works for Cannon Mills now.

6 MR. ROBERTS: Did you and Mrs. Bonds have any children,  
7 Mr. Bonds?

8 MR. BONDS: Yes, sir.

9 MR. ROBERTS: Mr. Bonds, do you recall reading, or hearing  
10 anything about this case?

11 MR. BONDS: Well, I read a little about it and seen it on  
12 television a little, or news.

13 MR. ROBERTS: Now, Mr. Bonds, we don't live in a vacuum,  
14 we can't escape newspapers, or televisions, but the im-  
15 portant thing is, is whether from what you have seen, or  
16 read, whether or not at that time, or now, you have any  
17 opinion as to the guilt or innocence of the defendant, and  
18 do you, sir, have an opinion at this moment?

19 MR. BONDS: Nothing only what it read, that's all I know.  
20 A lot the times they publish things that ain't exactly  
21 right.

22 MR. ROBERTS: In other words, if you are chosen to sit on  
23 this jury you can completely disabuse your mind from what  
24 you read in the newspaper, and be guided solely from the  
25 testimony you heard in this courtroom, can you do that?

1 MR. BONDS: Yes, sir.

2 MR. ROBERTS: And at this moment you understand that the

3 defendant is innocent under the laws of this State?

4 MR. BONDS: Yes, sir.

5 MR. ROBERTS: And you are willing to give him that pre-

6 sumption at this time, and nothing in your experience

7 leaves you to think at this moment that he is guilty?

8 That might be a little confusing to you. In other words,

9 you have no opinion, can I be assured of that?

10 MR. BONDS: No, I have no opinion.

11 MR. ROBERTS: Miss Allman, is it Miss or Mrs.?

12 MRS. ALLMAN: Mrs.

13 MR. ROBERTS: Mrs. Allman, are you publically employed?

14 MRS. ALLMAN: Yes, sir, to Cora Yarns in Mt. Pleasant.

15 MR. ROBERTS: Is your husband publically employed?

16 MRS. ALLMAN: Yes, sir. Cannon.

17 MR. ROBERTS: Do you and Mr. Allman have children?

18 MRS. ALLMAN: Yes, sir.

19 MR. ROBERTS: Mrs. Allman, you indicated, ma'am, that you

20 read or heard something about this case. I assume it's

21 newspaper and television. Do you at this moment, Mrs.

22 Allman, have any opinion as to the guilt, or innocence of

23 this defendant?

24 MRS. ALLMAN: No, sir.

25 MR. ROBERTS: And, ma'am, if you are chosen to sit on this

1 jury can you be guided solely by the evidence that you  
2 heard in this courtroom?  
3 MRS. ALLMAN: Yes, sir.  
4 MR. ROBERTS: Mr. Skidmore, sir, where do you live, sir,  
5 in the county?  
6 MR. SKIDMORE: In Kannapolis, 615 Leonard Avenue, sir.  
7 MR. ROBERTS: Are you publically employed?  
8 MR. SKIDMORE: Yes, sir.  
9 MR. ROBERTS: What is the nature of your work?  
10 MR. SKIDMORE: Cannon Mills.  
11 MR. ROBERTS: You married, Mr. Skidmore?  
12 MR. SKIDMORE: Yes, sir.  
13 MR. ROBERTS: Is your wife publically employed?  
14 MR. SKIDMORE: Yes, sir.  
15 MR. ROBERTS: What is the nature of her work?  
16 MR. SKIDMORE: Cannon Mills.  
17 MR. ROBERTS: Textile?  
18 MR. SKIDMORE: Yes, sir.  
19 MR. ROBERTS: Do you and Mrs. Skidmore have children?  
20 MR. SKIDMORE: Yes, sir, we do.  
21 MR. ROBERTS: Mr. Skidmore, you also indicated that you  
22 read something about this case, or heard this case. Did  
23 you at that time, or do you now have any opinion as to the  
24 guilt or innocence of the defendant?  
25 MR. SKIDMORE: No, sir, I sure don't.

1 MR. ROBERTS: And do you feel, sir, that you could sit on  
2 this jury and be guided solely by the evidence that you  
3 heard in here?  
4 MR. SKIDMORE: Yes, sir, I sure do.  
5 MR. ROBERTS: I noticed awhile ago when I referred to the  
6 case being tried on the street, you shook your head in  
7 agreement it should be tried in this courtroom, and I  
8 assume you firmly believe that?  
9 MR. SKIDMORE: Yes, sir, in this courtroom only.  
10 MR. ROBERTS: Now, Miss Causby, are you publically em-  
11 ployed?  
12 MISS CAUSBY: Yeah.  
13 MR. ROBERTS: Where do you work?  
14 MISS CAUSBY: Chinagrove Cotton Mill.  
15 MR. ROBERTS: Are you married, ma'am?  
16 MISS CAUSBY: No.  
17 MR. ROBERTS: Are you a native of Cabarrus County?  
18 MISS CAUSBY: Yes.  
19 MR. ROBERTS: You say you neither read nor heard anything  
20 about this case?  
21 MISS CAUSBY: I didn't even know there was a rape until  
22 I came down here.  
23 MR. ROBERTS: Is it Miss or Mrs. Slupe?  
24 MRS. SLUPE: Mrs.  
25 MR. ROBERTS: Mrs. Slupe, are you publically employed,

1       ma'am?

2       MRS. SLUPE: Yes.

3       MR. ROBERTS: What is the nature of your work?

4       MRS. SLUPE: Cannon Mill.

5       MR. ROBERTS: And is your husband publically employed?

6       MRS. SLUPE: At Cannon Mill.

7       MR. ROBERTS: Do you and Mr. Slupe have children?

8       MRS. SLUPE: Yes.

9       MR. ROBERTS: Now, Mrs. Slupe, you also indicated, ma'am,  
10      that you had read or heard something about this case.

11      Did you at the time you read or heard, or do you at this  
12      moment have any opinion as to the guilt or innocence of  
13      this defendant?

14      MRS. SLUPE: No, sir.

15      MR. ROBERTS: And you heard my explanation of the law of  
16      this State that this defendant is presumed innocent until  
17      he is proven guilty?

18      MRS. SLUPE: Yes.

19      MR. ROBERTS: And you adhere to that rule of law, I  
20      assume you agree with it?

21      MRS. SLUPE: Yes.

22      MR. ROBERTS: And you are willing if chosen to sit on this  
23      jury, apply those principles to this trial and be guided  
24      solely by the evidence you shall hear in this courtroom?

25      MRS. SLUPE: Yes.

1 MR. ROBERTS: Mrs. Slupe, would the activity on the public  
2 streets out here have any effect on your verdict?  
3 MRS. SLUPE: No, sir.  
4 MR. ROBERTS: None whatsoever?  
5 MRS. SLUPE: No, sir.  
6 MR. ROBERTS: Mr. Johnson, sir, where do you work?  
7 MR. JOHNSON: For Laxton Construction Company.  
8 MR. ROBERTS: Are you married, sir?  
9 MR. JOHNSON: Yes.  
10 MR. ROBERTS: Is your wife publically employed?  
11 MR. JOHNSON: Yes, sir.  
12 MR. ROBERTS: What is the nature of her work?  
13 MR. JOHNSON: Secretary.  
14 MR. ROBERTS: She's not a secretary to a lawyer, I assume?  
15 MR. JOHNSON: No, sir.  
16 MR. ROBERTS: Do you and Mrs. Johnson have children?  
17 MR. JOHNSON: Yes, sir.  
18 MR. ROBERTS: And you say, sir, that you have absolutely  
19 no knowledge of this case. You don't know anything about  
20 it at all?  
21 MR. JOHNSON: No, sir, not at all.  
22 MR. ROBERTS: And when you were subpoenaed to come here  
23 you had no idea this case was docketed for trial, I  
24 assume?  
25 MR. JOHNSON: The sheriff's department that came out said

1 there was a rape case coming up, but he didn't know when  
2 and I didn't really have any idea what it would be until  
3 I came in.

4 MR. ROBERTS: Now, Mr. Johnson, I assume then that if you  
5 have neither read nor heard, nor seen anything about this  
6 case that you could not possibly have any opinion about  
7 it, is that correct?

8 MR. JOHNSON: True.

9 MR. ROBERTS: Is it Miss or Mrs. Sides?

10 MRS. SIDES: Mrs.

11 MR. ROBERTS: Mrs. Sides are you publically employed,  
12 ma'am?

13 MRS. SIDES: No, I'm not.

14 MR. ROBERTS: Homemaker?

15 MRS. SIDES: Yes.

16 MR. ROBERTS: And what kind of work does your husband do?

17 MRS. SIDES: He's a construction worker.

18 MR. ROBERTS: Do you and Mr. Sides have children?

19 MRS. SIDES: Yes.

20 MR. ROBERTS: Mrs. Sides, you indicated, ma'am, that you  
21 had read, or heard something about this case. At the  
22 time you read, saw or heard whatever it was, or know, do  
23 you have any opinion as to the guilt, or innocence of the  
24 defendant?

25 MRS. SIDES: No.

1 MR. ROBERTS: Would your verdict in this case possibly  
2 be effected by the activity outside the courtroom?  
3 MRS. SIDES: No.  
4 MR. ROBERTS: Is it Miss or Mrs. Snyder?  
5 MRS. SNYDER: Mrs.  
6 MR. ROBERTS: Mrs. Snyder are you publically employed,  
7 ma'am?  
8 MRS. SNYDER: I own my own business.  
9 MR. ROBERTS: What is it?  
10 MRS. SNYDER: It's a craft shop.  
11 MR. ROBERTS: Where is this situated?  
12 MRS. SNYDER: 215 West A Street, Kannapolis.  
13 MR. ROBERTS: Is your husband publically employed?  
14 MRS. SNYDER: Yes, he's a mechanic.  
15 MR. ROBERTS: And do you and Mr. Snyder have children?  
16 MRS. SNYDER: Yes, we do.  
17 MR. ROBERTS: Now, Mrs. Snyder, you indicated, ma'am,  
18 that you read, saw, or heard something about this case.  
19 Did you at any time, or do you now have any opinion as to  
20 the guilt, or innocence of the defendant?  
21 MRS. SNYDER: No.  
22 MR. ROBERTS: Do not?  
23 MRS. SNYDER: No.  
24 MR. ROBERTS: Would you in any way be intimidated, or  
25 affected by the activity on the street?



1 MRS. SNYDER: No, I wouldn't.

2 MR. ROBERTS: This would create no prejudice against the  
3 State, or the defendant in your opinion?

4 MRS. SNYDER: No.

5 MR. ROBERTS: Mr. Haigler, sir, what is your line of work?

6 MR. HAIGLER: I work for the State Highway Department.

7 MR. ROBERTS: In what capacity, sir?

8 MR. HAIGLER: The Department of Transportation.

9 MR. ROBERTS: Are you married?

10 MR. HAIGLER: No, sir, single.

11 MR. ROBERTS: Now, you indicated that you had not read,  
12 seen, nor heard anything about this case, is that correct?

13 MR. HAIGLER: Yes.

14 MR. ROBERTS: So, then can I assume that you have no  
15 opinion as to the defendant's guilt, or innocence?

16 MR. HAIGLER: Yes, sir.

17 MR. ROBERTS: Would you, sir, be affected by the activity  
18 in the streets out here?

19 MR. HAIGLER: No.

20 MR. ROBERTS: Create no influence upon you at all?

21 MR. HAIGLER: No, sir.

22 MR. ROBERTS: Mr. Vartania, sir, what part of the County  
23 do you live in?

24 MR. VARTANIA: Concord, Sunnyside Drive Southeast.

25 MR. ROBERTS: Are you employed at the time?

1 MR. VARTANIA: Retired government employee.  
2 MR. ROBERTS: What governmental agency did you work for?  
3 MR. VARTANIA: Missile Base Engineer.  
4 MR. ROBERTS: How long have you lived in the County?  
5 MR. VARTANIA: Two years, three months.  
6 MR. ROBERTS: Where is your home?  
7 MR. VARTANIA: Sunnyside Drive Southeast here in Concord.  
8 MR. ROBERTS: I believe prior to coming to Concord---  
9 MR. VARTANIA: Long Island, New York.  
10 MR. ROBERTS: Has your wife ever been publically employed,  
11 sir?  
12 MR. VARTANIA: Yes, she's a dental assistant.  
13 MR. ROBERTS: Did you and Mrs. Vartania have children?  
14 MR. VARTANIA: Yes.  
15 MR. ROBERTS: Now, Mr. Vartania, you indicated you read,  
16 or heard something about this case. Do you recall, sir,  
17 whether, or not at the time you read it that you formed  
18 any opinion as to the guilt, or innocence of the de-  
19 fendant?  
20 MR. VARTANIA: No opinion whatsoever.  
21 MR. ROBERTS: Do you at this moment have any opinion as to  
22 his guilt, or innocence?  
23 MR. VARTANIA: No.  
24 MR. ROBERTS: Would you, sir, be affected by any activity  
25 that has been going on in the streets around this court-